

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

NINTENDO OF AMERICA INC.

Plaintiff,

v.

TOM DILTS, JR.

and

UBERCHIPS, LLC, d/b/a UBERCHIPS.COM

Defendants.

CIVIL ACTION NO. 3:20-
CV-01076-JJH

Hon. Jeffrey J. Helmick

CONSENT TO ENTRY OF JUDGMENT AND PERMANENT INJUNCTION

Plaintiff Nintendo of America, Inc. (“Plaintiff”) and Defendants Tom Dilts, Jr. and Uberchips, LLC (collectively, “Defendants”), by and through their undersigned counsel, hereby consent to judgment in favor of Nintendo of America Inc. (“Nintendo”) and authorize the Court to enter monetary relief in the sum of US\$2,000,000.00 in favor of Nintendo and against all Defendants, the liability of which shall be borne by all Defendants jointly and severally, and pursuant to the following terms:

1. The Defendants acknowledge that each of them has been properly and validly served with the Summons and Complaint in this action.
2. Defendants acknowledge and agree that this award of monetary relief bears a reasonable relationship to the range of damages and attorneys’ fees and full costs that the parties could have anticipated would be awarded at and following a trial of this action.

3. Defendants irrevocably and fully waive notice and service of this Consent to Entry of Judgment and Permanent Injunction (“Consent Judgment”), and notice and service of the Final Judgment and Permanent Injunction, filed separately with this Court, and understand and agree that violation of the Final Judgment and Permanent Injunction will expose the Defendants to all penalties provided by law, including for contempt of Court.

4. This Court has jurisdiction over the parties and the subject matter of this action, and venue is proper in this Court. Defendants consent to the jurisdiction of this Court for the purpose of entering the Final Judgment and Permanent Injunction.

5. The Court’s Final Judgment and Permanent Injunction, shall be incorporated into and made a part of this Consent Judgment as if it were set forth verbatim herein. Defendants consent to the continuing jurisdiction of the Court for purposes of enforcement of the Final Judgment and Permanent Injunction, and irrevocably and fully waive and relinquish any argument that venue or jurisdiction by the Court is improper or inconvenient.

6. Defendants irrevocably and fully waive any and all right to appeal the Final Judgment and Permanent Injunction, to have them vacated or set aside, or otherwise to attack in any way, directly or collaterally, their validity or enforceability.

7. Nothing contained in the Final Judgment and Permanent Injunction shall limit the right of the Plaintiff to recover damages for any and all violations of the Digital Millennium Copyright Act (“DMCA”) and/or infringements of the Plaintiff’s copyrighted works by the Defendants and/or any other violations of the law, occurring after the date of execution of this Consent to Entry of Judgment and Permanent Injunction.

8. The Defendants acknowledge that they have read this Consent to Entry of Judgment and Permanent Injunction, and have had it explained by counsel of their choosing, and

fully understand it and agree to be bound thereby, and will not deny the truth or accuracy of any term or provision herein.

9. The Plaintiff shall not be required to post any bond or security, and the Defendants permanently, irrevocably, and fully waive any right to request a bond or any other security.

10. The undersigned counsel represent that they have been authorized to execute this Consent to Entry of Judgment and Permanent Injunction on behalf of their respective clients as set forth below.

Dated: September 30, 2020

By: /s/ Kimberly Weber Herlihy

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By: /s/ Zachary D. Maisch

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CERTIFICATE OF SERVICE

A copy of the foregoing was filed electronically with the Court this 30th day of September, 2020. Service will be made by the Court's electronic notification system, and all parties may access this filing through the Court's system.

By: /s/ Kimberly Weber Herlihy